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2 75 Commercial St.
3 Boston, MA 02109

4 City of Boston
5 1 City Hall Plaza
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7 Greenway Conservancy
8 Nancy Breenan
9 185 Kneeland St.
Boston, MA 02111

10 Boston Parks
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12 1010 Massachusetts Avenue, 3rd Floor
13 Boston, MA 02118

14 US District Court
15 Boston, Massachusetts
16 **1 Courthouse Way**
17 Boston, Massachusetts 02210

18 Orlando Gliders Inc., Plaintiff,) Case No.: _____
19 vs.)
Defendants)
City of Boston)
Greenway Conservancy)
Boston Parks _____

Motion for Temporary Restraining Order (TRO) and Injunctive Relief

Parties

1. The Plaintiff, Orlando Gliders Inc. is a Florida Corporation, with offices located throughout Florida and Massachusetts.
2. City of Boston, City Council and Docket 0555 located at 1 City Hall Plaza Boston Ma 02109
3. Greenway Conservatory with offices at 185 Kneeland St. Boston, MA 02111
4. Boston Parks with offices located at 1010 Massachusetts Ave. Boston, MA 02118

Jurisdiction

Now Comes the Plaintiff to seek a TRO and Injunctive Relief against Docket 0555 passed into law on June 15, 2011. By the City of Boston City Council. The Boston Federal Court has jurisdiction over the City of Boston and since part of this case is based on a clear level of discrimination, a ruling at the Federal level is needed.

Allegations and Facts

The plaintiff alleges that the City of Boston has created a new law that threatens the stability of an established and "in demand" product in the City of Boston.

Docket 0555 passed on June, 15 2011 by the City Council creates several issues limiting the operation, profitability and future growth of Orlando Gliders Inc.

1. The passing of this law negatively affects several significant revenue streams and sales programs, including daily tour services along with group events, travel programs and advertising programs.
 2. This law will damage Group Travel for our company by eliminating over 12% of our business. This effects our stability and employee retention programs.
 3. This law addresses and unfairly affects only (1) company and type in the City of Boston. The law then wants to regulate the company from a managerial level, all the way to the guide level. The law does not regulate any other tour guide in the City of Boston.
 4. The City of Boston claims it spent 2 years fact finding before proposing this law. However, they never consulted the only operating and licensed company in the City of Boston(Boston Gliders) to gather information which would help determine if legislation was deemed necessary.
 5. After a public hearing on May 13 2011 it was apparent that not one department had a single fact correct regarding the size, weight, performance, or speed of a Segway PT.
 6. On one occasion in 2010, Sal Lamantina met with Boston Gliders for 15 minutes to stand on, and try, a new Segway Pt. Before that date his only experience riding a Segway was when he went to Segway Inc. and decided to test the safety level of the Segway by having another person (Mr. Tinlan) hit him on another

1 Segway. The Segways used in this event were older Segways that had a stiff
2 handle and was not equipped with the new lean steer system.

3 7. The Docket 0555 requires tour operators to have no signage on their units
4 outside of a company name. This one item affects our yearly revenue by over
5 \$100,000. For the past 3 years we have provided our laser cut Seg Sign program
6 to sponsors on a national level but much of our business stems from local
7 Boston businesses and events. Boston events worked in the past include; Fancy
8 Food Show, Earth Day, St Patrick's Day Parade, Boston Marathon, Gay Pride week.
9 We have safely and effectively promoted for brands such as Sony, Hains
10 Celestial, Trident and the US Census.

11 8. Docket 0555 calls for the regulation of Segway Tour Guides but no other tour
12 guides including Bike, walking, or trolley are effected. You only need to
13 posses a pair of shoes, a bike or a validation you passed a DMV test to drive a
14 trolley and provide some insightful humor and facts to provide a tour in the
15 City of Boston.

16 9. Docket 0555 calls for the regulation of hours of tours via Segway's. This is
17 clearly a level of discrimination since bike tours, walking tours, and other
18 types of tours have no such regulation.

19 10. Docket 0555 will cost Boston Gliders several hundreds of thousands of dollars
20 in revenue from Seg Signs (Segway based promotion), Group Events, timing of
21 events and the regulation of individual units and guides.

22 11. Boston Parks Group allows walking tours to enter and pass through its park on a
23 daily basis. Some groups exceed 50 people and take over the entire walk way.
24 This poses a direct threat to all other pedestrians yet no action has been
25 taken to correct this issue.

26 12. Greenway Conservancy has banned the use of the Segway PT on their "Private
27 Property". They state "we must protect what we created as a innovative and
28 welcoming tourist attraction". The Greenway has entered into a lease agreement
29 to manage the Rose Kennedy Greenway. This was to allow a private entity to
30 manage this property for public use.

31 13. The City of Boston continues to refer to the Segway PT as a vehicle which,
32 would be regulated by the DMV not the City of Boston. The Federal Consumer

1 division has declared the Segway PT a Non-Vehicle and a pedestrian consumer
2 device.

3 14. The Segway PT has been cataloged as a EMPAD "Electric Mobility Personal
4 Assistive Device" along with items like a 3 wheeled scootaround, and a 4
5 wheeled hoveraround. All of which are consumer devices and can be purchased
6 through local and national retail estblishments.

7 15. The City Council continues to speak about public safety yet Boston Gliders has
8 completed over 35000 tours over 4 summers in Boston and no tour participant has
9 ever hit a single pedestrian. Orlando Gliders Inc has toured over 50000
10 participants on a National Level with no such incidents occurring.

11 16. The Hackney Division of the Boston Police is not qualified to manage a tour
12 company. They have no specialized training or programs that affords the police
13 or commissioner any training on Tourism, travel programs, marketing and/or
14 running a tour based company.

15 17. The Transportation Department is ordered by this law to approve routes for
16 Segway Tours. Once again, this outlines the Segway is a vehicle and not a
17 pedestrian device.

18 18. Docket 0555, An ordinance regulating the use of Personal Assistive Devices does
19 not regulate all devices, it only discriminates against the use of the Segway
20 PT, a type of device that is outlined by the Federal Consumer division as an
21 EMPAD.

22 19. Docket 0555 outlines the Segway PT has disrupted pedestrian areas of the North
23 End and Beacon Hill.

24 20. Issuing a license to tour companies for (1) year dramatically reduces a
25 company's ability to create plans, sign contracts, and grow it's business.

26 21. Having multiple parties that can change, alter or block several different parts
27 of the licensing process. Police Commission has the authority over the business
28 license approval process. The Department of Transportation has authority over
29 routes and hours.

30 22. Segway tours can only be operated in the street. Segway speeds will be limited
31 to go 8mph and riders will be put in harms way and could create traffic
32 problems.

1 23. Personal use: I am a Segway user with a level of impaired mobility, I find it a
2 violation of my civil rights to have to prove to have the right to use a type
3 of EMPAD. So if I want to use a hoveraround I don't have to do anything or
4 provide any proof of disability, but if I want to use a Segway PT which is
5 cataloged and placed in the same category by the federal government, I have to
6 prove my right to choose to use this device.

7 24. The city of Boston should have created a fair ordinance that regulates all tour
8 companies, and guides, instead of singling out (1) company.

9 25. Conducting tours on the street with out multiple tour guides is unsafe and not
10 in the guidelines of keeping people safe.

11 26. The underlying basis for the ordinance violates the Federal law on both a
12 personal and Business level. The fact that it restricts trade and creates a set
13 of rules for one device in a category and one type of tour company outlines a
14 clear level of discrimination.

15 27. Boston Parks Group has gone so far as refusing to allow the Greater Boston
16 Convention and Visitors Organization from putting up signs or posters offering
17 Boston Gliders Ads. Last summer in May of 2010 the Parks Commission pulled down
18 a sign in the Visitors Center stating that there will not be any advertising
19 for Boston Gliders in the visitors center in the Boston Commons. Since that day
20 our \$800 sign has never been seen again. Recently at a hearing, a GBCVB agent
21 claimed the parks group confiscated the sign.

22 28. Orlando Gliders Inc is currently opperates other types of Tour services
23 (walking and biking tours) yet has never been approached to regulate those
24 services.

25 29. The law stipulates that we are required to have a dedicated area of training
26 and that we cannot use sidewalks for this purpose. However, the City of Boston
27 allows bike tour companies like Urban Adventures to occupy the entire sidewalk
28 with parked bikes. On any given day you can't stroll down the sidewalks of
29 Hanover St. due to every restaurant's use of public sidewalks for their
30 personal waiting room. One of the city contentions are to have an approved
31 space for training, but there is no ordinance about using the sidewalk to
32 create commerce and Bike tour companies use it as a display center and

restaurants use it as a public waiting area. However, if you teach someone how to use a Segway on a sidewalk for 5 minutes your running your business on city property.

Relief

I ask the Honorable Judge to grant a Temporary Restraining order to allow the correct facts to be presented and ensure that the information provided is accurate and leads to the creation of an equal and equitable ordinance that will ensure fair trade and commerce in the city of Boston.

I ask the Honorable Judge to order the City to Vacate the law based the argument that it violates personal civil rights by creating a law that only makes one type of user perform validation.

Order the city to Vacate the law since it prohibits Fair Trade, it does not promote competition by significantly restricting daily business operations.

The law as constructed today leaves too many items up in the air, with several departments involved.

The law calls for the Hackney Division to manage a Tour Company. Part of the relief needs to include clear instruction and guidelines for the city to follow when creating a law that manages all Tour Companies and who or what department manages the relationship with the city. This department should specialize in Tourism and have a non biased motivation.

Order the city to regulate either companies or guides but not both. This type of regulation geared toward regulating a Segway Tour operation seem overkill.

Order the city of Boston to create a law that is for the entire tourism and tour based services including bike, walking, and trolley.

Order the Boston Parks group to allow Segways in all public areas. Until now the Common and the Park Rangers have harassed our patrons while enjoying the park.

Order the Rose Kennedy Greenway to allow Segways in all public areas. Members of the Conservancy have harassed our patrons while using or accessing the greenway. This is meant to be a shared public space for all to enjoy. Not just the chosen few.

Order the City of Boston to license all Tour Guides equally so that it be in line with similar types of licensing in other cities such as Salem Ma

1 where all tour guides must be licensed to provide a walking, biking, Segway,
2 or kayaking tour. These organizations pay a \$10 fee for the license.
3

4 By Granting this TRO and Injunction it will not harm or hinder safety
5 in any way. Orlando Gliders Inc. has been operating and offering Segway Tours
6 since July 4, 2008 without a single Public Safety issue. The city claims this
7 ordinance is to protect the public's safety but clearly after 35,000+
8 tourists have taken the Boston Segway Tour without a pedestrian accident,
there is no Public Safety issue.

9 By not granting this TRO and Injunction you will be allowing the city
10 to restrict trade by creating rules for only one type of user and tourist
11 based product. This ordinance, if fairly created, would have addressed all
tour companies, guides and options.

12 Besides having tour routes approved all other items are in compliance.
13 Boston Gliders has gone above and beyond to create a safe and proper
environment for the safety of our tourism market.

14 We encourage regulation and understand the idea that laws and
15 ordinances are created to ensure safety and stability. This law, as it is
16 written is going to create hardship, additional costs, and ensure plans can
17 not be made outside of a 12 month period. We have already made marketing
18 plans and choices for 2012. With this law in place we will not be able to
19 fulfill our contracted obligations and/or cover our operating costs.

20 Our current tour routes have been in place for over 3 years with the
exception of a starting point. We used to start at 121 Salem St. in the North
21 End then at 36 Warren St. in Charlestown, and last year at 75 Commercial St.
22 in the North End. Now after building out a brand new facility at 420
23 Commercial St. and signing a long term lease, the city wants to adopt a 12
month licensing process. This, again, is unlike any other license they issue
even a business license is for 3 years.

24 If this law continues, we will have to cancel events booked by group
and event planners and refund over Fifty thousand Dollars. We currently have
25 reservations through October, 2011.

26 By not granting this TRO we will have to lay off several new hire
employees and existing staff members.

27 By not granting this TRO you will be jeopardizing the 6th most popular
28 tourist activity in Boston. This rating comes from independent companies such
as Where Travel Magazine and Trip Advisor. In the 4 summers we have been in
29 business, we have more recommendations than the Boston Duck Boat tours and
30

1 who have been in Boston for over 15 years. We are an "in demand" tourist
2 attraction that has grown because of its unique appeal and safety record.

3 Everyone is entitled to Public Access. If the city has an issue with
4 the access, then that is what needs to be addressed. Our record stands firm,
5 the City of Boston spent 2 years collecting incorrect information to
6 sensationalize the issue. At the first hearing the officer stated it took
7 325,000 accidents involving texting for them to make a law against it. They
8 wanted to be proactive of this "Segway problem" by imposing regulations but
9 there has not been (1) accident involving a pedestrian. They also, didn't
cite any conditions to affect those changes i.e. no use of cameras, video
players, or electronic devices which we have impose already.

10 In closing, this law is not about regulation, let alone, proactive
11 regulation. This law is about killing a new product/service before it becomes
12 mainstream. If they wanted to do it correctly they would have consulted with
13 us to find out about the equipment, its capabilities and what would ensure
public safety.

14 The law calls for the Department of Transportation to regulate routes
15 that they have never ridden a segway on. How could they know if they are
16 safe. When Director Tinlin and Lamintina was invited to the Segway Plant to
17 learn about the product they thought it was more productive to play around
18 and slam into each other on the device to test its safty. (once again this
was an older different model with different characteristics).

19 The Federal Consumer Division has cataloged the Segway PT as a consumer
20 non motor vehicle and outlined it as a EMPAD for pedestrian level use.

21 I ask the Honorable Judge provide this TRO under the facts listed and
22 it not be publicized based on the solitary fact that 35,000 tours have been
23 completed with no pubic safety issues.

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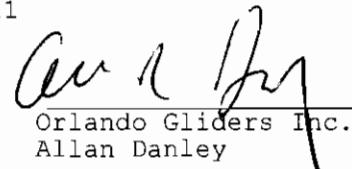
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2 Dated this
3 06/16/2011
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Orlando Gliders Inc.
Allan Danley

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